

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES BRADLEY MOORE and
COLLETTE L.S. MOORE,

PLAINTIFF,

WELLS FARGO BANK, N.A.

DEFENDANT.

No. 1:22-CV-3045-TOR

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties stipulate to and petition the Court to enter the following Stipulated Protective Order. It does not confer blanket protection on all disclosures or responses to discovery. The protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. "CONFIDENTIAL" MATERIAL

“Confidential” material shall include the following documents and tangible things produced or otherwise exchanged: Plaintiffs’ personal financial information, and documents containing confidential or business proprietary information of Wells

1 Fargo or containing the personal identifying information of Plaintiffs or any other
2 individual.

3 **3. SCOPE**

4 The protections conferred by this agreement cover not only confidential
5 material (as defined above), but also (1) any information copied or extracted from
6 confidential material; (2) all copies, excerpts, summaries, or compilations of
7 confidential material; and (3) any testimony, conversations, or presentations by
8 parties or their counsel that might reveal confidential material. However, the
9 protections conferred by this agreement do not cover information that is in the
10 public domain or becomes part of the public domain through trial or otherwise.

11 **4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL**

12 **4.1 Basic Principles.** A receiving party may use confidential material that
13 is disclosed or produced by another party or by a non-party in connection with this
14 case only for prosecuting, defending, or attempting to settle this litigation.
15 Confidential material may be disclosed only to the categories of persons and under
16 the conditions described in this agreement. Confidential material must be stored
17 and maintained by a receiving party at a location and in a secure manner that ensures
18 that access is limited to the persons authorized under this agreement.

19 **4.2 Disclosure of “CONFIDENTIAL” Information or Items.** Unless
20 otherwise ordered by the Court or permitted in writing by the designating party, a
21 receiving party may disclose any confidential material only to:
22

23 (a) the receiving party’s counsel of record in this action, as well as
24 employees of counsel to whom it is reasonably necessary to disclose the information
25 for this litigation;

26 (b) the officers, directors, and employees (including in house counsel) of
27 the receiving party to whom disclosure is reasonably necessary for this litigation,
28

1 unless the parties agree that a particular document or material produced is for
2 “Attorney’s Eyes Only” and is so designated;
3

4 (c) experts and consultants to whom disclosure is reasonably necessary for
5 this litigation and who have signed the “Acknowledgment and Agreement to Be
6 Bound”(Exhibit A);
7

8 (d) the Court, court personnel, and court reporters and their staff;
9

10 (e) copy or imaging services retained by counsel to assist in the
11 duplication of confidential material, provided that counsel for the party retaining
12 the copy or imaging service instructs the service not to disclose any confidential
13 material to third parties and to immediately return all originals and copies of any
14 confidential material;
15

16 (f) during their depositions, witnesses in the action to whom disclosure is
17 reasonably necessary and who have signed the “Acknowledgment and Agreement
18 to Be Bound” (Exhibit A), unless otherwise agreed by the designating party or
19 ordered by the Court. Pages of transcribed deposition testimony or exhibits to
20 depositions that reveal confidential material must be separately bound by the court
21 reporter and may not be disclosed to anyone except as permitted under this
22 agreement;
23

24 (g) the author or recipient of a document containing the information or a
25 custodian or other person who otherwise possessed or knew the information.
26

27 **4.3 Filing Confidential Material.** Before filing confidential material or
28 discussing or referencing such material in court filings, the filing party shall confer
with the designating party to determine whether the designating party will remove
the confidential designation, whether the document can be redacted, or whether a
motion to seal, or stipulated agreement, and proposed order is warranted. During
the meet and confer process, the designating party must identify the basis for sealing
the specific confidential information at issue, and the filing party shall include this

1 basis in its motion to seal, along with any objection to sealing the information at
2 issue. A party who seeks to maintain the confidentiality of its information must
3 satisfy the legal standard for said information to be filed under seal, even if it is not
4 the party filing the motion to seal. Failure to satisfy this requirement will result in
5 the motion to seal being denied, in accordance with the strong presumption of public
6 access to the Court's files.

7 **5. DESIGNATING PROTECTED MATERIAL**

8 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

9 Each party or non-party that designates information or items for protection under
10 this agreement must take care to limit any such designation to specific material that
11 qualifies under the appropriate standards. The designating party must designate for
12 protection only those parts of material, documents, items, or oral or written
13 communications that qualify, so that other portions of the material, documents,
14 items, or communications for which protection is not warranted are not swept
15 unjustifiably within the ambit of this agreement. Mass, indiscriminate, or routinized
16 designations are prohibited. Designations that are shown to be clearly unjustified
17 or that have been made for an improper purpose (e.g., to unnecessarily encumber or
18 delay the case development process or to impose unnecessary expenses and burdens
19 on other parties) expose the designating party to sanctions. If it comes to a
20 designating party's attention that information or items that it designated for
21 protection do not qualify for protection, the designating party must promptly notify
22 all other parties that it is withdrawing the mistaken designation.

23 **5.2 Manner and Timing of Designations.** Except as otherwise provided in
24 this agreement (see, e.g., second paragraph of section 5.2(b) below), or as otherwise
25 stipulated or ordered, disclosure or discovery material that qualifies for protection
26 under this agreement must be clearly so designated before or when the material is
27 disclosed or produced.

(a) Information in documentary form: (e.g., paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating party must affix the word “CONFIDENTIAL” to each page that contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the producing party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial proceedings: the parties and any participating non-parties must identify on the record, during the deposition or other pretrial proceeding, all protected testimony, without prejudice to their right to so designate other testimony after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect confidential information at trial, the issue should be addressed during the pre-trial conference.

(c) Other tangible items: the producing party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the word “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the designating party's right to secure protection under this agreement for such material. Upon timely correction of a designation, the receiving party must make reasonable efforts to ensure that the material is treated in accordance with the provisions of this agreement.

1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1 Timing of Challenges. Any party or non-party may challenge a
3 designation of confidentiality at any time. Unless a prompt challenge to a
4 designating party's confidentiality designation is necessary to avoid foreseeable,
5 substantial unfairness, unnecessary economic burdens, or a significant disruption or
6 delay of the litigation, a party does not waive its right to challenge a confidentiality
7 designation by electing not to mount a challenge promptly after the original
8 designation is disclosed.

9 6.2 Meet and Confer. The parties must make every attempt to resolve any
10 dispute regarding confidential designations without court involvement. Any motion
11 regarding confidential designations or for a protective order must include a
12 certification, in the motion or in a declaration or affidavit, that the movant has
13 engaged in a good faith meet and confer conference with other affected parties in
14 an effort to resolve the dispute without court action. The certification must list the
15 date, manner, and participants to the conference. A good faith effort to confer
16 requires a face to-face meeting or a telephone conference.

17 6.3 Judicial Intervention. If the parties cannot resolve a challenge without
18 court intervention, the designating party may file and serve a motion to retain
19 confidentiality under Local Civil Rule 7. The burden of persuasion in any such
20 motion shall be on the designating party. Frivolous challenges, and those made for
21 an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
22 on other parties) may expose the challenging party to sanctions. All parties shall
23 continue to maintain the material in question as confidential until the Court rules on
24 the challenge.

25 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
26 **PRODUCED IN OTHER LITIGATION**

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL," that party must:

(a) promptly notify the designating party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Fed. R. Civ. P. 26(b)(5)(B). This provision is not intended to modify whatever procedure may be

1 established in an e-discovery order or agreement that provides for production
2 without prior privilege review. The parties agree to the entry of a non-waiver order
3 under Fed. R. Evid. 502(d) as set forth herein.
4

5 **10. NON TERMINATION AND RETURN OF DOCUMENTS**

6 Within 60 days after the termination of this action, including all appeals, each
7 receiving party must return all confidential material to the producing party,
8 including all copies, extracts and summaries thereof. Alternatively, the parties may
9 agree upon appropriate methods of destruction.

10 Notwithstanding this provision, counsel are entitled to retain one archival
11 copy of all documents filed with the Court, trial, deposition, and hearing transcripts,
12 correspondence, deposition and trial exhibits, expert reports, attorney work product,
13 and consultant and expert work product, even if such materials contain confidential
14 material.

15 The confidentiality obligations imposed by this agreement shall remain in
16 effect until a designating party agrees otherwise in writing or a court orders
17 otherwise.

18 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

19 DATED this 6th day of December, 2022.

20 NORTHWEST CONSUMER LAW

21 /s/ Amanda N. Martin

22 Amanda N. Martin, WSBA #49581
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27 CENTER

1 K&L GATES LLP
2

3 /s/ Raina V. Wagner
4 Peter A. Talevich, WSBA #42644
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8 Tel.: (206) 623-7580
9 Email: peter.talevich@klgates.com
10 *Attorneys for Defendant*

11 PURSUANT TO STIPULATION, IT IS SO ORDERED.
12

13 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the
14 production of any documents in this proceeding shall not, for the purposes of this
15 proceeding or any other federal or state proceeding, constitute a waiver by the
16 producing party of any privilege applicable to those documents, including the
17 attorney-client privilege, attorney work-product protection, or any other privilege
18 or protection recognized by law.

19 DATED: December 7, 2022.
20



21 A handwritten signature in blue ink that reads "Thomas O. Rice".
22

23 The Honorable Thomas O. Rice
24 United States District Court Judge
25
26
27
28

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3
4 I, _____ [print or type full name],
5 of _____ [print or type full address],
6 declare under penalty of perjury that I have read in its entirety and understand the
7 Stipulated Protective Order that was issued by the United States District Court for
8 the Eastern District of Washington on [date] in the case of *Moore v. Wells Fargo*
9 *Bank, N.A.*, Case #1:22-CV-3045-TOR. I agree to comply with and to be bound by
10 all the terms of this Stipulated Protective Order, and I understand and acknowledge
11 that failure to so comply could expose me to sanctions and punishment in the nature
12 of contempt. I solemnly promise that I will not disclose in any manner any
13 information or item that is subject to this Stipulated Protective Order to any person
14 or entity except in strict compliance with the provisions of this Order.
15
16

17 I further agree to submit to the jurisdiction of the United States District Court
18 for the Eastern District of Washington for the purpose of enforcing the terms of this
19 Stipulated Protective Order, even if such enforcement proceedings occur after
20 termination of this action.
21
22

23 Date: _____
24 City and State where sworn and signed: _____
25 Printed name: _____
26 Signature: _____
27
28